

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXECUTIVE ACTION _____
EFFECTIVE DATE _____

**County Council Of
Howard County, Maryland**

2008 Legislative Session

Legislative Day No. 10

Bill No. 55-2008

Introduced by: The Chairperson at the request of the County Executive

AN ORDINANCE supplementing Council Bill No. 35-2006 to allow proceeds of the County's Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series D, to be used to finance additional costs of Capital Project No. E-1005 (Mt. Hebron High School Renovation) described in Council Bill No. 45-2008, and supplementing Council Bill No. 34-2006 to allow proceeds of the County's Consolidated Public Improvement Bonds authorized thereby to be used to refinance such project costs; and providing for and determining various matters in connection therewith.

Introduced and read first time _____, 2008. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2008.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2008 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this __day of _____, 2008 at __ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved by the County Executive _____, 2008

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

Recitals

On June 15, 2006 (the "Initial Closing Date"), Howard County, Maryland (the "County") issued and sold its Howard County, Maryland Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series D (the "Notes"), in the initial maximum aggregate principal amount outstanding at any one time of \$100,000,000, in accordance with Council Bill No. 35-2006 of the County Council of Howard County (the "County Council"), a bond issue authorization ordinance enacted and effective on June 7, 2006 (the "Initial Note Ordinance"). The Initial Note Ordinance was enacted pursuant to (a) Council Bills Nos. 28, 29, 30, 39, 40, 55 and 56 of the County Council of Howard County, enacted during the 2003 Legislative Session, Council Bills Nos. 18, 19, 20, 21, 31, 32 and 82, enacted during the 2004 Legislative Session, and Council Bills Nos. 23, 24, 25, 26, 28, 35, 36 and 44, enacted during the 2005 Legislative Session (collectively, the "Initial Bond Enabling Laws"), and (b) Section 12 of Article 31 of the Annotated Code of Maryland, as amended (the "Bond Anticipation Note Act").

The Initial Note Ordinance provides that the proceeds of the Notes shall be applied, inter alia, to defray a portion of the costs of the Howard County Capital Projects which were designated and described in Appendix II thereto (the "Initial Projects"), as such Appendix II may be modified by ordinances supplemental thereto.

The Initial Note Ordinance provides that it may be supplemented from time to time to add additional Council Bills, which become effective after the date of passage of the Initial Note Ordinance, to the definition of "Bond Enabling Laws" thereunder, and to supplement Appendix II to the Initial Note Ordinance to modify the definition of "Projects" to include Howard County Capital Projects to be described in such additional Council Bills and to modify the description of the costs of Projects to reflect the effect of such additional Council Bills, provided that each such supplemental ordinance complies with the requirements of the Initial Note Ordinance with respect to such supplements.

The Initial Note Ordinance has been heretofore supplemented by (a) Council Bill No. 50-2006, enacted and effective on August 2, 2006 ("Council Bill No. 50-2006"), (b) Council Bill No. 3-2007, enacted and effective on March 7, 2007 (the "2007 Bond Sale Ordinance"), (c) Council Bill No. 50-2007,

1 enacted and effective on August 1, 2007 ("Council Bill No. 50-2007"), (d) Council Bill No. 1-2008,
2 enacted and effective on February 5, 2008 (the "2008 Bond Sale Ordinance") and (e) Council Bill No. 52-
3 2008, enacted and effective on August 1, 2008 ("Council Bill No. 52-2008") in order to (1) add Council
4 Bills Nos. 28, 29, 30, 31 and 32, enacted during the 2006 Legislative Session, Council Bills Nos. 20, 21,
5 22, 23 and 36, enacted during the 2007 Legislative Session, and Council Bills Nos. 28, 29, 30 and 31,
6 enacted during the 2008 Legislative Session (collectively, the "Previously-Added Bond Enabling Laws")
7 to the definition of "Bond Enabling Laws" in the Initial Note Ordinance, (2) modify the definitions of
8 "Projects" and the descriptions in the Initial Note Ordinance of the costs of the Projects which can be
9 financed with the proceeds of the Notes to add the additional Howard County Capital Projects and related
10 bond authorizations and the revised bond authorizations for existing Projects provided for in the
11 Previously-Added Bond Enabling Laws (collectively, the "Additional Projects"), and (3) modify
12 Appendix II to the Initial Note Ordinance by including as a part thereof the appendices attached to
13 Council Bill No. 50-2006, Council Bill No. 50-2007 and Council Bill No. 52-2008, Appendix II to the
14 2007 Bond Sale Ordinance and Appendix II to the 2008 Bond Sale Ordinance.

15 The Initial Note Ordinance has also been supplemented by (a) Council Bill No. 2-2007, enacted
16 and effective on February 6, 2007 (the "2007 Supplemental Note Ordinance"), in order to, among other
17 things, provide for the issuance of an additional \$150,000,000 of the Notes and an increase in the
18 maximum aggregate principal amount of the Notes authorized to be outstanding thereunder and the
19 maximum amount of Advances under the Credit Facility from \$100,000,000 to \$150,000,000, and (b)
20 Council Bill No.18-2008, enacted and effective on May 8, 2008 (the "2008 Supplemental Note
21 Ordinance"), in order to, among other things, provide for the issuance of an additional \$107,500,000 of
22 the Notes so that the maximum aggregate principal amount of the Notes authorized to be outstanding
23 thereunder and the maximum amount of Advances under the Credit Facility (both as defined in the Initial
24 Note Ordinance) has been reinstated to \$150,000,000.

25 Accordingly, as used herein, the term "Existing Note Ordinance" means the Initial Note
26 Ordinance as modified and supplemented by Council Bill No. 50-2006, the 2007 Supplemental Note

1 Ordinance, the 2007 Bond Sale Ordinance, Council Bill No. 50-2007, the 2008 Bond Sale Ordinance, the
2 2008 Supplemental Note Ordinance and Council Bill No. 52-2008; and the term "Note Ordinance" means
3 the Existing Note Ordinance as modified and supplemented by this Ordinance and as hereafter modified
4 and supplemented.

5 On June 7, 2006, the County also enacted Council Bill No. 34-2006 (the "Initial Bond Ordinance"),
6 pursuant to the Initial Bond Enabling Laws in order to provide for the issuance and sale of up to
7 \$101,525,000 in aggregate principal amount of its Consolidated Public Improvement Bonds and/or
8 Metropolitan District Bonds, in one or more series (the "Bonds"), in order to pay the Notes. The Initial Bond
9 Ordinance provides that it may be supplemented to modify the definitions of "Bond Enabling Laws" and
10 "Projects" thereunder so that such terms will remain consistent with the definitions thereof in the Note
11 Ordinance and the proceeds of the Bonds may be used to refinance the Projects financed with the proceeds of
12 the Notes.

13 The Initial Bond Ordinance has also been heretofore supplemented by (a) Council Bill No. 50-2006,
14 the 2007 Bond Sale Ordinance, Council Bill No. 50-2007, the 2008 Bond Sale Ordinance and Council
15 Bill No. 52-2008, (b) Council Bill No. 1-2007, enacted and effective on February 6, 2007 (the "2007
16 Supplemental Bond Ordinance"), which increased the aggregate principal amount of the Bonds authorized
17 to be issued pursuant to the Initial Bond Ordinance, as theretofore and thereby supplemented, by an
18 additional \$150,000,000, and (c) Council Bill No. 17-2008, enacted and effective on May 8, 2008 (the
19 "2008 Supplemental Bond Ordinance"), which increased the aggregate principal amount of the Bonds
20 authorized to be issued pursuant to the Initial Bond Ordinance, as theretofore and thereby supplemented, by
21 an additional \$107,500,000.

22 The 2007 Bond Sale Ordinance provided for, among other things, the issuance of the County's
23 consolidated public improvement bonds in the aggregate principal amount of \$100,000,000, and
24 \$100,000,000 of the proceeds of such bonds was applied to repay the initial \$100,000,000 in aggregate
25 principal amount of the Notes. Such principal amount of \$100,000,000 constitutes "Bonds" for purposes of
26 the Note Ordinance.

1 The 2008 Bond Sale Ordinance provided for, among other things, the issuance of the County's
2 consolidated public improvement bonds in the aggregate principal amount of \$107,500,000 (the "2008
3 Bonds"). A portion of the aggregate purchase price for such bonds has been applied to repay
4 \$107,500,000 in aggregate principal amount of the Notes, thereby reducing the maximum aggregate
5 principal amount of the Notes authorized to be outstanding to \$42,500,000. Such aggregate principal
6 amount of \$107,500,000 also constitutes "Bonds" for purposes of the Note Ordinance.

7 The Initial Bond Ordinance, as modified and supplemented by Council Bill No. 50-2006, the
8 2007 Supplemental Bond Ordinance, the 2007 Bond Sale Ordinance, Council Bill No. 50-2007, the 2008
9 Bond Sale Ordinance, the 2008 Supplemental Bond Ordinance and Council Bill No. 52-2008, is referred
10 to herein as the "Existing Bond Ordinance".

11 Appendix II to the Note Ordinance, as such Appendix II may be supplemented from time to time, is
12 incorporated by reference into the Existing Bond Ordinance and made a part thereof.

13 Prior to the introduction of this Council Bill, the County has also enacted Council Bill No. 45-
14 2008, which is a bond enabling law. Such bill has become effective prior to the passage of this Ordinance
15 and is referred to herein as the "Additional Bond Enabling Law." The County has now determined to
16 supplement both the Existing Note Ordinance and the Existing Bond Ordinance in order to (a) add the
17 Additional Bond Enabling Law to the respective definitions of "Bond Enabling Laws" in the Existing
18 Note Ordinance and the Existing Bond Ordinance, (b) modify the descriptions therein of the costs of the
19 Projects which can be financed with the proceeds of the Notes and refinanced with the proceeds of the
20 Bonds to add the additional bond authorization for Capital Project No. E-1005 (Mt. Hebron High School
21 Renovation) (the "Capital Project") provided for in the Additional Bond Enabling Law, and (c) modify
22 Appendix II to the Existing Note Ordinance by including as part thereof the Appendix attached to this
23 Ordinance.

24 **Now, therefore:**

25 **Section 1. Be it enacted by the County Council of Howard County, Maryland,** That all terms
26 used herein with an initial capital letter shall have the meanings given such terms in the Existing Note

Ordinance as herein and hereafter supplemented and amended in accordance with its terms (the "Note Ordinance") or in the Recitals of this Ordinance, unless the context clearly indicates a contrary meaning.

Section 2. Be it further enacted by the County Council of Howard County, Maryland, That the Note Ordinance and the Bond Ordinance are each hereby supplemented as follows:

(a) The Additional Bond Enabling Law shall be added to and incorporated into the definition of Bond Enabling Laws under both the Note Ordinance and the Bond Ordinance.

(b) The Appendix attached hereto shall be added to and incorporated into Appendix II to the Note Ordinance, which is in turn incorporated into the Bond Ordinance. The proceeds of the Notes can be used to defray a portion of the costs of the Capital Project which are designated and described in the Appendix attached hereto, and the Capital Project shall be deemed to be a "Project" for all purposes of the Note Ordinance. The actual costs of the Capital Project to be so defrayed from the proceeds of the Notes shall be determined by the Director of Finance; provided that (i) the amount to be applied to the Capital Project shall not exceed (A) the amount shown in the column captioned "Unsold Bonds" for the Capital Project listed in Appendix II to the Note Ordinance as currently in effect plus (B) the amount shown in the column captioned "Additional Unsold Bonds" in the Appendix attached hereto, and (ii) to the extent that the proceeds of the Notes applied to defray the costs of the Capital Project are less than such amount, the difference shall be paid from proceeds of other bond or bond anticipation note issues of the County or from such other sources as the County may hereafter determine. The costs of the Capital Project shall include, without limitation, the cost of planning, design, construction, reconstruction, furnishing, equipping, improvements, renovations, remodeling, enlargements, engineering services, architects' services, surveys, landscaping, site development, evaluation studies, land acquisition and related items, appurtenances and incidental activities. The estimated costs of the Capital Project and the other sources of funds for the Capital Project are set forth in the Appendix attached hereto, and such Appendix is hereby incorporated into the Note Ordinance and the Bond Ordinance by reference and made a part of each of such ordinances.

(c) On and after the date of enactment hereof, all references to "Note Ordinance" in the Note Ordinance or the Bond Ordinance shall mean the Existing Note Ordinance as supplemented hereby, and

1 all references to "Bond Ordinance" in the Note Ordinance or the Bond Ordinance shall mean the Existing
2 Bond Ordinance as supplemented hereby.

3 **Section 3. Be it further enacted by the County Council of Howard County, Maryland,** That the
4 County hereby finds and determines that (a) the probable average life of the Capital Project and the Projects
5 listed in Appendix II to the Note Ordinance as heretofore in effect which are to be funded from Consolidated
6 Public Improvement Bonds is more than 25 years, and (b) the probable average life of the Projects listed in
7 Appendix II to the Note Ordinance as heretofore in effect which are to be funded from Metropolitan District
8 Bonds is more than 35 years.

9 **Section 4. Be it further enacted by the County Council of Howard County, Maryland,** That
10 prior to the enactment of this Ordinance, the County has received an opinion of Bond Counsel to the effect
11 that this Ordinance is authorized or permitted by the Note Ordinance, the Bond Ordinance, the Bond
12 Enabling Laws and the Bond Anticipation Note Act, complies with their respective terms, will, upon the
13 enactment thereof, be valid and binding upon the County in accordance with its terms and will not adversely
14 affect (i) the exclusion of the interest payable on the Notes from the gross income of the Owners of the Notes
15 for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended,
16 or (ii) the exemption of the Notes from state, county and municipal taxation in the State; and the County has
17 received evidence satisfactory to it that counterparts of such opinion from Bond Counsel have also been
18 delivered to the Issuing and Paying Agent, the Dealer and the Credit Facility Provider (all as defined in the
19 Note Ordinance).

20 **Section 5. Be it further enacted by the County Council of Howard County, Maryland,** That,
21 except as expressly modified and supplemented hereby, each of the Note Ordinance and the Bond Ordinance
22 shall remain in full force and effect; and each of the Note Ordinance and Bond Ordinance, as modified and
23 supplemented hereby, is ratified and confirmed.

24 **Section 6. Be it further enacted by the County Council of Howard County, Maryland,** That
25 this Ordinance shall take effect on the date of its enactment.
26

Appendix

Additional Project Costs

| Project | Additional Unsold Bonds | Other Sources of Funds | Estimated Cost of Project |
|--|-------------------------------|------------------------------|---------------------------------|
| E1005 FY2007 MT HEBRON HIGH SCHOOL RENOVATION A project to renovate Mount Hebron High School. | \$27,000,000 | \$3,100,000 (B) | \$30,100,000 |

B = BONDS